

NOV 25 2019

Clerk, U.S. Courts  
District of Montana  
Helena Division

UNITED STATES OF AMERICA

Respondent

v

JOSEPH LEE ELDABAA

Petitioner

To The Court:

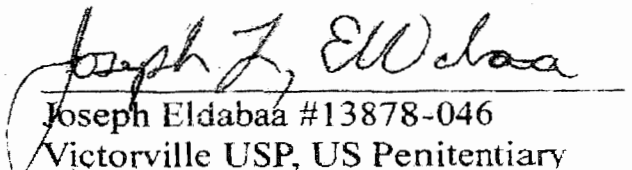
) MEMORANDUM OF LAW  
) IN SUPPORT OF MOTION  
) FOR RECONSIDERATION

) CASE NO: CR-15-011-H-CCL

) CASE NO. CV-18-98-H-CCL

Petitioner attaches USA v Caesar Rodriguez, a March 28 2018 Opinion of the 9<sup>th</sup> US Circuit issued over one year following the March 6 2017 US Supreme Court Beckles Opinion related to federal guidelines for calculations of criminal history based on state convictions. As is clear, while Beckles limits Johnson's vagueness standard to the Armed Career Criminal Act, the overbreadth doctrine of the 9<sup>th</sup> US Circuit initiated in US v Gonazlez-Montorroso and USA v Garcia- Jiminez is not, and applies to criminal histories like Petitioner's including Attempted Assault and DCS defined by Oregon and similar statutes. Hence, under 9<sup>th</sup> US Circuit law Petitioner's sentence should be recalculated; yet Judge Lovell's Sept. 17 Opinion/Order makes no attempt to consider and respect 9<sup>th</sup> US Circuit law in this situation; so we ask that this Habeas be reassigned to a neutral, impartial forum that will.

Submitted to the Court November 13 2019

  
Joseph Eldabaa #13878-046  
Victorville USP, US Penitentiary  
P.O Box 3900  
Adelanto CA 92301

UNITED STATES OF AMERICA )

Respondent )

v )

JOSEPH LEE ELDABAA )

Petitioner )

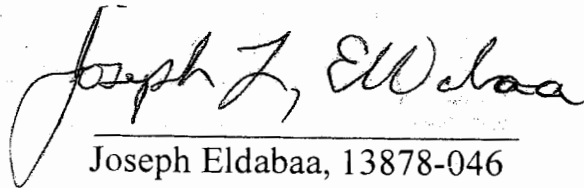
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CERTIFICATE OF SERVICE

CASE NO: CR-15-011-H-CCL

CASE NO. CV-18-98-H-CCL

Petitioner certifies that he has mailed true copies of MOTION OF MOTION FOR RECONSIDERATION AFTER REASSIGNMENT TO NEUTRAL, IMPARTIAL JUDGE, MEMORANDUM OF LAW IN SUPPORT OF RECONSIDERATION by first class mail in sealed envelope, postage fully prepaid, to Paulette Stewart, US Attorney 901 Front Street, Suite 1100, Helena MT 59626 This November 13 2019.



Joseph Eldabaa, 13878-046  
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